

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2331 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

BHAGWANJI GOKALBHAI VIRADYA

Versus

DHORAJI MUNICIPALITY

Appearance:

None present for Petitioner
MS MANISHA LAVKUMAR for Respondent No. 1
None present for other Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 13/06/2000

ORAL JUDGEMENT

#. The petitioner prayed for the following reliefs:-

(A) to allow this petition with costs;

(B) to direct the respondent Municipality to make payment of the entire amount which remains due and payable to the petitioner together with interest at the rate of 12% and from 1st October, 1988, within the time that may be specified by this Hon'ble Court.

(C) to direct respondents Nos. 2 and 3 to take appropriate actions against the respondent No.1 Municipality as provided under the provisions of the Gujarat Municipalities Act;

(D) to issue interim mandatory direction directing the respondent No.1 Municipality to make payment of the amount of Rs.44,393/= or the amount of Provident Fund of Rs.22,980/= as per statement Annex. 'B' together with interest at the rate of 12% per annum within fifteen days from the date of the order, pending the hearing and final disposal of this petition;

(E) to pass such other order or orders as the nature and circumstances of the case may require."

#. The petitioner retired from the service of the respondent No.1 on 1.10.1988. This court on 17.4.1999 admitted the matter and passed the following order :-

"Mr.Hathi, learned Advocate for the petitioner, states that no inquiry is pending or is contemplated against the petitioner.

Rule. Notice as to interim relief to be made returnable on 4.5.89.

Ad-interim relief to the effect that Resp. No.1 is directed to deposit Rs.11,000/= in this court being the amount of contribution by the petitioner to provident fund on or before 1.5.89. As and when the amount is deposited, petitioner will be at liberty to withdraw the same without or further order from this court. The said amount shall be disbursed by issuing a demand

draft in favour of the petitioner by the Registry"

#. It is not made be known to the court whether this order is complied with or not. The respondents have not filed any reply to this Special Civil application and as such the facts stated by the petitioner that he was in the service of the respondent No.1, retired on attaining superannuation on 1.10.88 and a total amount of Rs.44,939.22 is outstanding towards his retiral benefits remained uncontroverted and the same are to be accepted.

#. In the result, the Special Civil Application succeeds and the same is allowed and the respondent No.1 is directed to pay Rs.44,393.22 to the petitioner with interest @12% from 1.11.1988 to the date of payment thereof within a period of one month from the date of the receipt of the writ of this order. However, it is made clear that in case in pursuance of the order of this court dated 17.4.89 or otherwise any mount has been paid to the petitioner towards this amount then the respondent No.1 is free to deduct that amount and accordingly calculate the interest payable on the balance amount. Rule is made absolute accordingly with no order as to costs.

(S.K.Keshote, J.)

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